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6 UNITED STATES DISTRICT COURT  
7 FOR THE WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 FIRST BANK, an Alaska state chartered bank,  
10 Plaintiff,

11 v.

12 EXODUS, Official No. 960616, its Engines,  
13 Machinery, Appurtenances, etc.,  
14 *In Rem*;

15 and

16 FRED J. HANKINS, an individual, and F.J.  
HANKINS ENTERPRISES, INC., an Alaska  
corporation,  
*In Personam*,

Defendants.

IN ADMIRALTY

Case No.: C21-5412JLR

ORDER APPOINTING SUBSTITUTE  
CUSTODIAN AND AUTHORIZING  
MOVEMENT AND INSPECTION OF  
VESSEL AND COLLATERAL

17 Plaintiff, First Bank by and through its attorney Lafcadio Darling of Holmes Weddle &  
18 Barcott, P.C., having appeared, now make the following recitals:  
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20 1. On June 1, 2021, the Complaint herein was filed praying that the defendant vessel  
21 EXODUS, Official No. 960616, her engines, machinery, and appurtenances etc. ("Vessel") be  
22 condemned and sold to pay Plaintiff's claims and for other proper relief.

23 2. In the immediate future, the Clerk of this Court is expected to issue a warrant for  
24 arrest of the Vessel, commanding the United States Marshal for this District to arrest and take  
25 into custody the Vessel and to detain the same in his custody until further order of this Court  
26 respecting same.  
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28 ORDER APPOINTING SUBSTITUTE CUSTODIAN AND  
AUTHORIZING MOVEMENT AND INSPECTION OF VESSEL  
AND COLLATERAL - 1  
Case No. C21-5412JLR

HOLMES WEDDLE & BARCOTT, PC  
3101 WESTERN AVENUE, SUITE 500  
SEATTLE, WA 98121-3071  
TELEPHONE (206) 292-8008  
FAX (206) 340-0289

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1           3.       It is contemplated that the United States Marshal will seize the Vessel and her  
2 appurtenances forthwith. Custody by the United States Marshal requires the services of one or  
3 more keepers at charges substantially in excess of those to be made by the substitute custodian  
4 alone, not including charges for moorage and the other services usually associated with  
5 safekeeping vessels similar to the defendant Vessel.

6           4.       The Vessel and Collateral is currently located at the Port of Ilwaco, WA. Plaintiff  
7 is agreeable to allow Marine Lender Services, LLC ("MLS"), through its Managing Member,  
8 Buck Fowler, to assume the responsibility of safekeeping the Vessel, to act as her custodian until  
9 further order of this Court, and to move the Vessel and her appurtenances from their current  
10 location to a suitable marine facility as MLS if necessary.

11           5.       Buck Fowler, Managing Member of MLS, by his declaration submitted herewith  
12 (Dkt. # 5) states that he can arrange for adequate facilities and supervision for the proper  
13 safekeeping of the Vessel and her appurtenances in her current location or elsewhere. Further,  
14 in his declaration MLS accepts, in accordance with the terms of this order, possession of the  
15 Vessel, her engines, machinery, and appurtenances etc., which is the subject of the action  
16 herein.

17           6.       In consideration of the United States Marshal's consent to the appointment of  
18 MLS as substitute custodian, Plaintiff agrees to release the United States and the United States  
19 Marshal from any and all liability and responsibility arising out of care and custody of the  
20 Vessel, from the time the United States Marshal transfers possession of the Vessel over to the  
21 substitute custodian, and Plaintiff further agrees to hold harmless and indemnify the United  
22 States and the United States Marshal from any and all claims whatsoever arising out of the  
23 substitute custodian's possession and safekeeping.

1           THEREFORE, IT IS ORDERED that the United States Marshal for the Western District  
2 of Washington is authorized, upon seizure of the Vessel and her appurtenances and equipment,  
3 pursuant to Warrant for Arrest, to surrender the possession thereof to MLS as substitute  
4 custodian named herein, and that upon such surrender the United States Marshal shall be  
5 discharged from the duties and responsibilities for the safekeeping of the Vessel and held  
6 harmless from any and all claims arising whatever out of said custodial services.

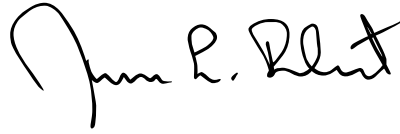
7           IT IS FURTHER ORDERED that MLS is appointed substitute custodian of the Vessel  
8 and her appurtenances and shall retain the Vessel in its custody for possession and safekeeping  
9 until further order of this Court and that said custodian may move the Vessel and her  
10 appurtenances from her current location to a secure facility within the District, in such steps  
11 and phases as it may determine under the circumstances. All costs for such movement shall be  
12 paid by Plaintiff, and may, upon further order of this Court, be deemed administrative costs  
13 herein.

14           IT IS FURTHER ORDERED that MLS may permit boarding and inspection of the  
15 Vessel by marine surveyors, representatives of plaintiff and prospective purchasers in order to  
16 determine the Vessel's condition and value. Costs of such boardings and inspections shall be  
17 paid by the party permitted to board and inspect the vessel or may, upon further order of  
18 this Court, be deemed administrative costs herein. All persons entering on board the Vessel  
19 shall execute a waiver and release in the form attached hereto.

20           IT IS FURTHER ORDERED that Plaintiff's attorney serve a copy of this order on the  
21 owner of the Vessel or the owner's agent.

22           It is further requested that the Clerk of this Court deliver three certified copies of this  
23 order to the United States Marshal forthwith.

1 IT IS SO ORDERED this 2nd day of June, 2021.

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5 JAMES L. ROBART  
6 UNITED STATES DISTRICT JUDGE

7 Presented by:

8 HOLMES WEDDLE & BARCOTT, P.C.  
9 Attorneys for Plaintiff

10 *s/ Lafcadio Darling*

11 Lafcadio Darling, WSBA #29996  
12 3101 Western Avenue, Ste. 500  
13 Seattle, Washington 98121-3071  
14 Telephone: (206) 292-8008  
15 Facsimile: (206) 340-0289  
16 Email: [ldarling@hwb-law.com](mailto:ldarling@hwb-law.com)

## **WAIVER OF AND RELEASE FROM LIABILITY**

Each of the undersigned, in consideration of being permitted to board the EXODUS, Official No. 960616, for the purposes of inspection and/or survey, does agree to and does hereby waive his/her rights whatever arising from any possible injury, illness, and/or death to him/her which may result from going onto, or off of, and being on board the vessel for such purpose.

The undersigned understands and agrees that his/her execution hereof constitutes a full release from any and all liability for any injury, illness and/or death, and any and all damages arising from his/her going onto, or off of, and being aboard the vessel. This release of liability extends to the benefit of:

1. U.S. Government and the U.S. Marshals Service, their agents and employees;
2. First Bank and its agents, employees and interested underwriters;
3. Fred Hankins, F.J. Hankins Enterprises, Inc., its agents, employees and interested underwriters;
4. Marine Lenders Services, LLC, through its Managing Member, Buck Fowler, Substitute Custodian, and its agents, employees and interested underwriters; and
5. The EXODUS, Official No. 960616, its engines, machinery and appurtenances and its interested underwriters.

The undersigned understands and agrees the he/she shall be liable for any damage to the aforesaid vessel, including, but not limited to, its hull, engine, machinery, appurtenances, furnishings, cargo etc., arising out of any actions or activities of any nature undertaken by him/her in relation to his/her boarding the vessel, such liability to attach to him/her whether such actions or activities are negligent or not and whether the actions or activities of the U.S. Marshal, his keeper, the United States of America, and/or the substitute custodian are negligent or not.

The undersigned further understands and agrees that the terms and conditions of this Waiver of and Release from liability extend to and are binding upon his/her heirs, assigns, and administrators.

**I HAVE READ THE FOREGOING WAIVER OF AND RELEASE  
FROM LIABILITY AND FULLY UNDERSTAND ITS CONTENTS.**

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